INTERNATIONAL LAW EXAM

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QUESTION 01

1.1 International law can be defined as, the law that regulate relations between states or countries, it also includes how international organisations, diplomats of states interact with each other. The similarities between international and national law are that:

(a) They both focus on the lawful rules that regulate human conduct. The international law regulates that conduct of the countries while the national law regulates the conduct of the citizens that in the country.

(b) International and national law both utilises writings drafted by the legal practitioners which are ideally serve as legal precedent and therefore assist the courts with cases and direction in legal matters. [1]

1.2

(a) When we talk about direct state liability we refer to a situation that occurs when an act that is not accepted in terms international law is committed by the government officials or state department such as police of the state or a minister of the state & an organ of the state when acting in their official capacity.

(b) Whilst the indirect state liability happens when a private person commits an act that is wrongful acting in their own private capacity and not on behalf of the state. [2]

1.3 International organs play a crucial role in the development and in application of the international law. These laws are created by the consensus or agreements made by states in order to reach and achieves their shared goals which therefore promotes cooperation between the countries.

International organs are secondary and derivatives subjects of international law this is due to that they get their legal principles from the states. International organs contribute in the development of the international law, as they provide states a plartform to draft treaties and make convention, majority of the

[1] University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 2 – 6.

[2] University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 42 – 45.

agreements are created as a result of the united nation. International organs also assist in writing of international laws and rules that govern international organs, this is done to make them easy to use and to understand.

Treaties are important in terms of developing international law, while the international organs as in terms of getting states work together to form treaties. International organs contribute in assisting that international law is put into application, the icj settles matters such as disputes taking place between state, they utilise international law to settles such disputes. As a results it create peace and security across countries.[3]

QUESTION 02

2.1.1 In terms of the Vienna convention articles 11 and 15. A state may outline their consent to be bound by a treaty in:

1. Signing a treaty with their signature, this method is common, is used in making of treaties. However in some cases a signature is not sufficient to make a treaty binding for a state.

2. By making a ratification, this occurs when a state confirms officially that it will allow to conform to a particular treaty.

3. By acceptance and approval, these are methods are also used by the states express their acceptance to be bound by a treaty. States can utilise this method sometimes in cases where their national law is not requiring the ratification.

4. By Accession, it allows a state that was not part of the treaty originally to be part and be bound by the treaty in later stages.

5.

States may declare their consent or will to be bound by a treaty through signature, ratification, approval, accessesion. [4]

2.1.2. Yes. Dr Abrahams have powers to conclude a treaty for State X.

[3] University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 25 – 27.
United Nation Charter.
[4] Vienna Convention on the law of treaties.

Dr Abraham as the minister of foreign affairs of state X is recognised as an official that can stand for the state in matters related to treaties. In terms of the Vienna convention on the law of treaties, article 7 (2) Ministers of foreign Affairs do not seek full authorisation to conclude treaties. Therefore as a result Dr Abrahams does not need any special permissions to sign a mineral treaty of behalf of his state, (x).

In terms of article 7 (2) of the VCLT, The head of state and the minister of foreign affairs states both have authority to conclude treaties, therefore the president and the minister of the state Y may conclude treaties as the representatives of their sates as provided in this convention.[5]

QUESTION 03

3.1 *Jus cogens* – in terms of the Vienna Convention, article 53, this refers to rules which are recognised and allowed by the international states as rules that states cannot act against, or not comply with. And therefore as a results states may not pass laws, treaties and agreements that are not compatible with the *Jus cogens* provisions. If states makes law that are not conforming to these rules, the acts, or treaties will deemed invalid.

These are the examples of the *Jus cogens* rules.

- The prohibition of agresstion.
- The prohibition of torture.
- Right to self – determination.
- Prohibiton of slavery
- Prohibition of genocide. [6]

[5] VCLT art. 7 (2).
University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 22 – 24.
Hennie Strydom and others, *international law* (3rd edn, oxfird university press 2024) 33 – 104.
[6] VCLT art 53.
Hennie Strydom and others, *international law* (3rd edn, oxfird university press 2024) 88.
University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 41 – 42.

3.2 In terms of United Nations charter and United Nations general assembly friendly relations resolution:-

The Sovereign equality refers to principle of the international law that means that all sates declared as legally equal there also have right that are equal as per international law, it should matter if the state has influence or militarily powerful than the other states.

The principle of sovereign equality is important this is due to that it promotes peaceful relationship between states and also prevent powerful or more influential states from abusing and interfering in the affairs of poor states.

These are the elements that make up sovereign equality as per the Friendly relations.

1. All the states legally equal.
2. Every state has an inherent right to being sovereign
3. Every state has a duty to respect the legal personality of the other states.
4. Territories and political independence of other states must be respected by others.
5. Every state has a right to develop their own cultural system.
6. Every states is obligated to comply with its international obligations and duties, agreements. [7]

3.3 The difference between arbitration, mediation and negotiations as peaceful resolution methods under international law is this:

(a) Negotiation this is the easiest way and mostly used method of resolving conflicts between the states, this manner of conflict resolution includes a process where parties have peaceful talks in order to find a common solution that best works for both parties and states that involved. Usually this method does not include third parties. And the method is requires less resources, negotiation fails if the parties are not able to agree or compromise. This method is informal and non-binding in terms the law.

(b) Mediation is when a third party is invited by the two states in the dispute to help in terms of the two states that are in a dispute to reach an agreement, usually the third party includes another state that is acting as a mediator. The third party's role is to assist the states that are disputing to communicate peacefully and make suggestions that can help the state with their dispute.

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[7] University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 1 -2
United nations charter art 2 (1)
United Nations Assembly Friendly Relations Resolutions A/RES/2625 (XXV) of 1970.
Hennie Strydom and others, *international law* (3rd edn, oxfird university press 2024) 3 – 33.

(C) Arbitration refers to a formal method to resolve a dispute between states, the states that are in conflict with each other would ideally agree to take their matter to an arbitrator to assist in in their dispute, and the decision that is decided by the arbitrator is legally binding on the parties or the states. The method is formal in the nature and it is also require too many costs and the process take time to reach to a conclusion.[8]

[8] University of South Africa, international law: Study Guide for LCP4807 (University of South Africa 2026) 29 -32